

In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 20-1820V

(not to be published)

JAMES BARNETT

Petitioner,

v.

SECRETARY OF HEALTH AND
HUMAN SERVICES,

Respondent.

Chief Special Master Corcoran

Filed: May 23, 2023

Special Processing Unit (SPU);
Attorney's Fees and Costs

Joseph Alexander Vuckovich, Maglio Christopher & Toale, PA, for Petitioner.

Benjamin Patrick Warder, U.S. Department of Justice, Washington, DC, for Respondent.

DECISION ON ATTORNEY'S FEES AND COSTS¹

On December 10, 2020, James Barnett filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*² (the "Vaccine Act"). Petitioner alleges that he suffered a shoulder injury related to vaccine administration resulting from adverse effects of an influenza vaccination he received on September 20, 2018. Petition at 1. On February 23, 2023, I issued a decision awarding compensation to Petitioner based on the parties' stipulation. ECF No. 30.

Petitioner has now filed a motion for attorney's fees and costs, requesting a total award of \$45,826.90 (representing \$45,206.00 in fees and \$620.90 in costs). Petitioner's

¹ In accordance with Vaccine Rule 18(b), Petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

² National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all section references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2018).

Request for Attorney's Fees ("Motion") filed Mar. 20, 2023, ECF No. 33. In accordance with General Order No. 9, Petitioner filed a signed statement indicating that he incurred no out-of-pocket expenses. ECF No. 33-3.

On Apr. 3, 2023, Respondent reacted to the motion, indicating that he is satisfied that the statutory requirements for an award of attorney's fees and costs are met in this case, but deferring resolution of the amount to be awarded to my discretion. Respondent's Response to Motion ("Response"), ECF No. 35. Petitioner filed a reply on Apr. 5, 2023, requesting that the Court award all fees and costs as indicated in Petitioner's motion. ECF No. 36.

I have reviewed the billing records submitted with Petitioner's request. In my experience, the request appears reasonable, and I find no cause to reduce the requested hours or rates.

Petitioner has requested the hourly rate of \$415 for work performed by Joseph Vuckovich in 2023 - representing a rate increase of \$30. Attachment to Motion 34. Additionally, Petitioner requests an hourly rate of \$180 for paralegal work performed in 2023. *Id.* at 3, 5, 9. I find these hourly rates to be reasonable and will award the attorney's fees requested.

Furthermore, Petitioner has provided supporting documentation for all claimed costs. Attachment to Motion at 35-55. And Respondent offered no specific objection to the rates or amounts sought.

The Vaccine Act permits an award of reasonable attorney's fees and costs for successful claimants. Section 15(e). Accordingly, I hereby GRANT Petitioner's Motion for attorney's fees and costs. I award a total of **\$45,826.90 (representing \$45,206.00 in fees and \$620.90 in costs) as a lump sum in the form of a check jointly payable to Petitioner and Petitioner's counsel. Per Petitioner's request, the check is to be forwarded to Maglio, Christopher & Toale Law, 1605 Main Street, Suite 710, Sarasota Florida 34236.** In the absence of a timely-filed motion for review (see Appendix B to the Rules of the Court), the Clerk of Court shall enter judgment in accordance with this Decision.³

³ Pursuant to Vaccine Rule 11(a), the parties may expedite entry of judgment by filing a joint notice renouncing their right to seek review.

IT IS SO ORDERED.

s/Brian H. Corcoran

Brian H. Corcoran
Chief Special Master